

House Bill 325 (AS PASSED HOUSE AND SENATE)

By: Representatives Martinez of the 111th, Bonner of the 73rd, Reeves of the 99th, Clark of the 100th, and Leverett of the 123rd

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 4 of Chapter 13 of Title 19 of the Official Code of Georgia Annotated,
2 relating to the Protective Order Registry, so as to revise certain definitions; to amend Part 1
3 of Article 5 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated, relating to
4 general provisions of the Code of Military Justice, so as to provide for processes for
5 protective orders to be issued by military judges that prohibit contact between specific
6 members of the state militia in the instance that one member of such militia has been accused
7 of stalking by another member of such militia; to amend Part 7 of Article 5 of Chapter 2 of
8 Title 38 of the Official Code of Georgia Annotated, relating to trial procedures of the Code
9 of Military Justice, so as to provide for contempt; to amend Part 10 of Article 5 of Chapter 2
10 of Title 38 of the Official Code of Georgia Annotated, relating to punitive provisions of the
11 Code of Military Justice, so as to provide for courts-martial; to provide for definitions; to
12 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
13 for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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Article 4 of Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to the Protective Order Registry, is amended by revising Code Section 19-13-51, relating to definitions, as follows:

"19-13-51.

As used in this article, the term:

(1) 'Court' means judges in the classes of courts identified in Title 15, military judges as defined in Code Section 38-2-1001, and any other person while acting as such a judge pursuant to designation as otherwise authorized by law.

(2) 'Foreign court' means a court of competent jurisdiction in any state other than this state or any territory or tribal jurisdiction in the United States.

(3) 'Foreign protective order' means any temporary order of protection, order of protection, restraining order, injunction, pretrial release order, or sentencing order that prohibits contact, acts of family violence, or stalking issued by a foreign court.

(4) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes ~~the following:~~ a state or local officer, law enforcement officer of the organized militia as defined in Code Section 38-2-1001, sheriff, deputy sheriff, dispatcher, 9-1-1 operator, police officer, prosecuting attorney, member of the State Board of Pardons and Paroles, a hearing officer of the State Board of Pardons and Paroles, and a community supervision officer of the Department of Community Supervision.

(5) 'Modification' means any amendment, dismissal, or continuance.

41 (6) 'Prosecuting attorney' means each attorney elected to represent a judicial circuit in
 42 this state and any assistant or deputy district attorney, or solicitor, in each judicial circuit
 43 in this state.

44 (7) 'Protective order' means:

45 (A) An ex parte, temporary, six-month, permanent, restraining, pretrial release, or
 46 sentencing order issued by a judge in this state that prohibits contact or that is pursuant
 47 to Article 7 of Chapter 5 of Title 16 or this chapter or a protective order or consent
 48 agreement issued by a military judge pursuant to Code Section 38-2-1006.1; and

49 (B) A foreign protective order.

50 (8) 'Registry' means the Georgia Protective Order Registry."

51 **SECTION 2.**

52 Part 1 of Article 5 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated,
 53 relating to general provisions of the Code of Military Justice, is amended by revising
 54 paragraph (15) of Code Section 38-2-1001, relating to definitions, as follows:

55 "(15) 'Military judge' means ~~an official of a general or special court-martial detailed by~~
 56 ~~the convening authority~~ an active or retired commissioned officer of the organized militia
 57 or state military force of another state or of the armed forces of the United States or a
 58 reserve component thereof who meets all requirements set forth in subsection (b) of Code
 59 Section 38-2-1026."

60 **SECTION 3.**

61 Said part is further amended by adding a new Code section to read as follows:

62 "38-2-1006.1.

63 (a) As used in this Code section, the term:

64 (1) 'State active duty' means full-time duty in the organized militia under an order of the
65 Governor or otherwise issued by authority of law when such duty is paid for with funds
66 of the state, including travel to and from such duty.

67 (2) 'Verified petition' means a petition that has been sworn to or affirmed by the
68 petitioner, in the presence of a notary public or other person authorized pursuant to 10
69 U.S.C. Section 1044a, indicating that the information contained in such petition is true
70 and accurate to the best of such petitioner's knowledge. Such term shall include a counter
71 petition filed by a respondent.

72 (b) A member of the organized militia who alleges stalking by another member of the
73 organized militia may seek a protective order by filing a verified petition alleging conduct
74 constituting stalking under Code Section 16-5-90. Subject matter jurisdiction under this
75 Code section shall be established if a nexus exists between the alleged conduct constituting
76 stalking under Code Section 16-5-90 and the organized militia. If either the petitioner or
77 the accused member was in a status as provided for by Title 32 of the United States Code
78 or was on state active duty during the time of the alleged conduct, a rebuttable presumption
79 exists that such nexus is established.

80 (c) A petition provided for in subsection (b) of this Code section shall be filed through the
81 petitioner's immediate commander or any superior commander of such petitioner if the
82 immediate commander is the respondent, and such immediate commander or superior
83 commander shall forward such petition to the Office of the State Judge Advocate within
84 24 hours of such commander's receipt of such petition. The Office of the State Judge
85 Advocate shall provide a copy of the verified petition to the respondent's immediate
86 commander who shall serve the petition upon such respondent; provided, however, that,
87 if the respondent's immediate commander is the petitioner, another appropriate superior
88 commander of the respondent shall serve such respondent.

89 (d) Upon the filing of a verified petition in which the petitioner alleges with specific facts
90 that probable cause exists to establish that stalking under Code Section 16-5-90 by the

91 respondent has occurred in the past and may occur in the future, the military judge may
92 order such temporary relief ex parte as he or she deems necessary to protect the petitioner
93 from stalking. If the military judge issues an ex parte order, a copy of the order shall be
94 furnished to the petitioner and a copy shall be provided to the respondent's immediate
95 commander, who shall serve the order upon the respondent; provided, however, that, if the
96 respondent's immediate commander is the petitioner, another appropriate superior
97 commander of the respondent shall serve such respondent.

98 (e) Within 10 days of the filing of the verified petition under this Code section or as soon
99 as practical thereafter, but not later than 45 days after the filing of the verified petition, a
100 hearing shall be held at which the petitioner must prove the allegations of the verified
101 petition by a preponderance of the evidence. Notice of such hearing shall be provided to
102 the petitioner and the respondent by their respective immediate commander or superior
103 commander at least five days in advance of such hearing.

104 (f) At the hearing provided for in subsection (e) of this Code section, the military judge
105 may grant a protective order on a temporary or permanent basis or approve a consent
106 agreement to bring about a cessation of conduct constituting stalking under Code Section
107 16-5-90. The military judge shall not have the authority to issue or approve mutual
108 protective orders unless the respondent has filed a verified petition as a counter petition no
109 later than three days, not including Saturdays, Sundays, and legal holidays, prior to the
110 hearing. Such orders or agreements may:

111 (1) Direct a party to refrain from such conduct constituting stalking under Code
112 Section 16-5-90; and

113 (2) Order a party to refrain from harassing and intimidating, as defined in Code
114 Section 16-5-90, the other party to the case.

115 (g) The military judge may compel obedience to a protective order or consent agreement
116 issued pursuant to this Code section and may punish by contempt, in accordance with Code

117 Section 38-2-1048, a party's disobedience to a protective order or consent agreement issued
118 pursuant to this Code section.

119 (h) A protective order or consent agreement issued pursuant to this Code section shall
120 apply and shall be effective throughout this state, regardless of the duty status of the
121 petitioner or the respondent. It shall be the duty of the immediate commanders and any
122 respective superior commanders or superior commissioned officers of the parties, every
123 military judge, every superior court, every sheriff, every deputy sheriff, and every military,
124 state, county, or municipal law enforcement officer within this state to enforce and carry
125 out the terms of any valid protective order or consent agreement issued under the
126 provisions of this Code section.

127 (i) A protective order or consent agreement issued pursuant to this Code section shall
128 expire by operation of law when the respondent is no longer a member of the organized
129 militia by virtue of resignation, retirement, expiration of term of service, discharge, or
130 transfer to the national guard of a state other than Georgia, but shall remain in full force
131 and effect during any time period in which the respondent is not a member of the organized
132 militia due to active military service of the United States under call or order into service.

133 (j) Appeals of the grant or denial of verified petitions filed pursuant to this Code section
134 shall be authorized in the same manner as appeals of domestic relations cases under Code
135 Section 5-6-35."

136 **SECTION 4.**

137 Part 7 of Article 5 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated,
138 relating to trial procedures of the Code of Military Justice, is amended by revising Code
139 Section 38-2-1048, relating to contempt and penalty, as follows:

140 "38-2-1048.

141 (a) A military judge may punish for contempt, in the same manner and subject to the same
142 limitations as authorized for courts in Code Section 15-1-4, any person who uses any

143 menacing word, sign, or gesture in his or her presence, or who disturbs the proceedings of
 144 the military court by any riot or disorder.

145 (b) A military judge may compel obedience to any lawful writ, process, order, rule, decree,
 146 or command of the military judge issued pursuant to this article and may punish by
 147 contempt, in the same manner and subject to the same limitations as authorized for courts
 148 in Code Section 15-1-4, any person's disobedience to any lawful writ, process, order, rule,
 149 decree, or command of the military judge issued pursuant to this article.

150 ~~(b)~~(c) A person subject to this article may be punished for contempt by confinement not
 151 to exceed 30 days or a fine of \$1,000.00, or both.

152 ~~(c)~~(d) A person not subject to this article may be punished for contempt by a military court
 153 in the same manner as a criminal court of this state.

154 (e) A person subject to this article who commits contempt may be tried by court-martial
 155 or otherwise disciplined under this article for such misconduct in addition to or instead of
 156 punishment for contempt.

157 (f) Appeals by persons punished for contempt shall be authorized in the same manner as
 158 appeals of contempt cases under Code Section 5-6-34."

159 **SECTION 5.**

160 Part 10 of Article 5 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated,
 161 relating to punitive provisions of the Code of Military Justice, is amended by revising Code
 162 Section 38-2-1092, relating to failure to obey order or regulation, as follows:

163 "38-2-1092.

164 Any person subject to this article shall be punished as a court-martial may direct who:

- 165 (1) Violates or fails to obey any lawful general order or regulation;
 166 (2) Having knowledge of any other lawful order issued by a member of the organized
 167 militia, which it is his or her duty to obey, fails to obey the order; ~~or~~
 168 (3) Is derelict in the performance of his or her duties; or

169 (4) Having knowledge of a protective order or consent agreement issued pursuant to
170 Code Section 38-2-1006.1, which it is his or her duty to obey, fails to obey the protective
171 order or consent agreement."

172 **SECTION 6.**

173 This Act shall become effective on July 1, 2025.

174 **SECTION 7.**

175 All laws and parts of laws in conflict with this Act are repealed.